



February 22, 2002

ENGROSSED SENATE BILL No. 239

DIGEST OF SB 239 (Updated February 20, 2002 11:07 AM - DI 87)

Citations Affected: IC 35-43; noncode.

Synopsis: Criminal mischief. Makes it a Class A misdemeanor for a person to damage railroad signaling equipment, railroad property on a right-of-way, owned by a railroad company, pipeline company, or utility company. Makes it a Class D felony if the damage causes substantial interruption or impairment of common carrier pipeline.

Effective: July 1, 2002.

Hume, Jackman, Craycraft, Howard
(HOUSE SPONSORS — FRENZ, CHERRY)

January 7, 2002, read first time and referred to Committee on Corrections, Criminal and Civil Procedures.

January 17, 2002, reported favorably — Do Pass.

January 22, 2002, read second time, ordered engrossed.

January 23, 2002, engrossed.

January 24, 2002, read third time, passed. Yeas 49, nays 0.

HOUSE ACTION

February 5, 2002, read first time and referred to Committee on Public Policy, Ethics and Veterans Affairs.

February 21, 2002, amended, reported — Do Pass.

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ES 239—LS 6834/DI 106+



February 22, 2002

Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

ENGROSSED SENATE BILL No. 239

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 35-43-1-2, AS AMENDED BY P.L.100-1999,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2002]: Sec. 2. (a) A person who:

- 4 (1) recklessly, knowingly, or intentionally damages or defaces
5 property of another person without the other person's consent; or
6 (2) knowingly or intentionally causes another to suffer pecuniary
7 loss by deception or by an expression of intention to injure
8 another person or to damage the property or to impair the rights
9 of another person;

10 commits criminal mischief, a Class B misdemeanor. However, the
11 offense is:

12 (A) a Class A misdemeanor if:

- 13 (i) the pecuniary loss is at least two hundred fifty dollars
14 (\$250) but less than two thousand five hundred dollars
15 (\$2,500);
16 (ii) the property damaged was a moving motor vehicle;
17 (iii) the property damaged was a **locomotive, a railroad car,**

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1 **a train**, or equipment of a railroad company being operated
 2 on a railroad right-of-way; ~~or~~
 3 **(iv) the property damaged was a part of any railroad**
 4 **signal system, train control system, centralized**
 5 **dispatching system, or highway railroad grade crossing**
 6 **warning signal on a railroad right-of-way owned, leased,**
 7 **or operated by a railroad company;**
 8 **(v) the property damaged was any rail, switch, roadbed,**
 9 **viaduct, bridge, trestle, culvert, or embankment on a**
 10 **right-of-way owned, leased, or operated by a railroad**
 11 **company, pipeline company, or utility company;**
 12 **(vi) the property damaged was the pipe, cable, pole,**
 13 **tower, control, or communications system of a pipeline**
 14 **or utility company;**
 15 **(vii) the property damaged was marked underground**
 16 **pipes or utilities or cathodic protection to a pipeline or**
 17 **utility; or**
 18 **(viii) the property damage or defacement was caused by**
 19 **paint or other markings; and**
 20 (B) a Class D felony if:
 21 (i) the pecuniary loss is at least two thousand five hundred
 22 dollars (\$2,500);
 23 (ii) the damage causes a substantial interruption or
 24 impairment of **common carrier pipeline or** utility service
 25 rendered to the public;
 26 (iii) the damage is to a public record;
 27 (iv) the damage causes substantial interruption or
 28 impairment of work conducted in a scientific research
 29 facility; or
 30 (v) the damage is to a law enforcement animal (as defined in
 31 IC 35-46-3-4.5).
 32 (b) A person who recklessly, knowingly, or intentionally damages:
 33 (1) a structure used for religious worship;
 34 (2) a school or community center;
 35 (3) the grounds:
 36 (A) adjacent to; and
 37 (B) owned or rented in common with;
 38 a structure or facility identified in subdivision (1) or (2); or
 39 (4) personal property contained in a structure or located at a
 40 facility identified in subdivision (1) or (2);
 41 without the consent of the owner, possessor, or occupant of the
 42 property that is damaged, commits institutional criminal mischief, a

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1 Class A misdemeanor. However, the offense is a Class D felony if the
 2 pecuniary loss is at least two hundred fifty dollars (\$250) but less than
 3 two thousand five hundred dollars (\$2,500), and a Class C felony if the
 4 pecuniary loss is at least two thousand five hundred dollars (\$2,500).

5 (c) If a person is convicted of an offense under this section that
 6 involves the use of graffiti, the court may, in addition to any other
 7 penalty, order that the person's operator's license be suspended or
 8 invalidated by the bureau of motor vehicles for not more than one (1)
 9 year.

10 (d) The court may rescind an order for suspension or invalidation
 11 under subsection (c) and allow the person to receive a license or permit
 12 before the period of suspension or invalidation ends if the court
 13 determines that:

14 (1) the person has removed or painted over the graffiti or has
 15 made other suitable restitution; and

16 (2) the person who owns the property damaged or defaced by the
 17 criminal mischief or institutional criminal mischief is satisfied
 18 with the removal, painting, or other restitution performed by the
 19 person.

20 **SECTION 2. [EFFECTIVE JULY 1, 2002] IC 35-43-1-2, as**
 21 **amended by this act, applies only to acts committed after June 30,**
 22 **2002.**

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SENATE MOTION

Mr. President: I move that Senators Craycraft and Howard be added as coauthors of Senate Bill 239.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Corrections, Criminal and Civil Procedures, to which was referred Senate Bill No. 239, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 239 as introduced.)

LONG, Chairperson

Committee Vote: Yeas 9, Nays 0.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy, Ethics and Veterans Affairs, to which was referred Senate Bill 239, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 10, delete "railroad".

Page 2, line 11, delete "company;" and insert "**company, pipeline company, or utility company;**".

Page 2, line 11, delete "or".

Page 2, between lines 11 and 12, begin a new line triple block indented and insert:

"(vi) the property damaged was the pipe, cable, pole, tower, control, or communications system of a pipeline or utility company;

(vii) the property damaged was marked underground pipes or utilities or cathodic protection to a pipeline or utility; or"

Page 2, line 12, delete "(vi)" and insert "(viii)".

Page 2, line 18, after "of" insert "**common carrier pipeline or**".

and when so amended that said bill do pass.

(Reference is to SB 239 as printed January 18, 2002.)

KUZMAN, Chair

Committee Vote: yeas 12, nays 0.

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